

<p>Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address</p> <p>Matthew D Resnik, Esq. (SBN 182562) RESNIK HAYES MORADI, LLP 510 W. 6th Street, Ste 1220 Los Angeles, CA 90014 Tel: (213) 572-0800 Fax: (213) 572-0860 Email: matt@rhmfirm.com</p> <p><input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for: Debtor</p>	<p>FOR COURT USE ONLY</p>
<p style="text-align: center;">UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA</p>	
<p>In re:</p> <p style="text-align: center;">Hector Guerrero</p> <p style="text-align: right;">Debtor(s).</p>	<p>CASE NO: 1:19-bk-11194-VK</p> <p>CHAPTER 13</p> <p style="text-align: center;">NOTICE OF MOTION AND MOTION IN INDIVIDUAL CASE FOR ORDER IMPOSING A STAY OR CONTINUING THE AUTOMATIC STAY AS THE COURT DEEMS APPROPRIATE</p> <p style="text-align: center;">(with supporting declarations)</p> <p>DATE: June 12, 2019 TIME: 9:30 am COURTROOM: 301 PLACE: 21041 Burbank Boulevard Woodland Hills, CA 91367</p>

Movant: Hector Guerrero

1. NOTICE IS HEREBY GIVEN to All Interested Parties (Secured Creditor/Lessor), trustee (if any), and affected creditors (Responding Parties), their attorneys (if any), and other interested parties that on the above date and time and in the stated courtroom, Movant in the above-captioned matter will move this court for an order imposing a stay or continuing the automatic stay as to certain creditors and actions described in the motion on the grounds set forth in the attached motion.
2. **Hearing Location:**

<input type="checkbox"/> 255 East Temple Street, Los Angeles, CA 90012	<input type="checkbox"/> 411 West Fourth Street, Santa Ana, CA 92701
<input checked="" type="checkbox"/> 21041 Burbank Boulevard, Woodland Hills, CA 91367	<input type="checkbox"/> 1415 State Street, Santa Barbara, CA 93101
<input type="checkbox"/> 3420 Twelfth Street, Riverside, CA 92501	
3. a. ☐ This Motion is being heard on REGULAR NOTICE pursuant to LBR 9013-1. If you wish to oppose this Motion,

you must file a written response to this motion with the court and serve a copy of it upon the Movant's attorney (or upon Movant, if the motion was filed by an unrepresented individual) at the address set forth above no less than 14 days before the above hearing and appear at the hearing of this motion.

- b. ☒ This motion is being heard on SHORTENED NOTICE. If you wish to oppose this motion, you must appear at the hearing. Any written response or evidence must be filed and served: ☐ at the hearing ☒ at least 2 days before the hearing.
- (1) ☒ An Application for Order Setting Hearing on Shortened Notice was not required (according to the calendaring procedures of the assigned judge).
- (2) ☐ An Application for Order Setting Hearing on Shortened Notice was filed per LBR 9075-1(b) and was granted by the court and such motion and order has been or is being served upon the appropriate creditor(s) and trustee, if any.
- (3) ☐ An Application for Order Setting Hearing on Shortened Notice has been filed and remains pending. Once the court has ruled on that motion, you will be served with another notice or an order that will specify the date, time and place of the hearing on the attached motion and the deadline for filing and serving a written opposition to the motion.
4. You may contact the Clerk's Office or use the court's website (www.cacb.uscourts.gov) to obtain a copy of an approved court form for use in preparing your response (optional court form F 4001-1.RESPONSE), or you may prepare your response using the format required by LBR 9004-1 and the Court Manual.
5. If you fail to file a written response to the motion or fail to appear at the hearing, the court may treat such failure as a waiver of your right to oppose the Motion and may grant the requested relief.

Date: May 23, 2019

RESNIK HAYES MORADI, LLP.

Printed name of law firm (if applicable)

Matthew D Resnik

Printed name of individual Movant or attorney for Movant

/s/ Matthew D Resnik

Signature of individual Movant or attorney for Movant

**MOTION FOR ORDER IMPOSING A STAY OR CONTINUING THE AUTOMATIC STAY AS
THE COURT DEEMS APPROPRIATE**

Movant: Hector Guerrero

1. The Property or Debt at Issue:

a. ☒ Movant moves for an order imposing a stay with respect to the following property (Property):

☐ Vehicle (describe year, manufacturer, type, and model):
Vehicle Identification Number:
Location of vehicle (if known):

☐ Equipment (describe manufacturer, type, and characteristics):
Serial number(s):
Location (if known):

☐ Other Personal Property (describe type, identifying information, and location):

☒ Real Property
Street Address: 17531 Encino Lane
Apt./Suite No.:
City, State, Zip Code: Encino, CA 91316
Legal description or document recording number(include county of recording):

☐ See attached continuation page

The following creditor(s) have a security interest or unexpired lease in this Property (give full name and address of creditor) Elan Adivi, Markee Holding Group, Los Angeles County Tax Collector, internal Revenue Service to secure the sum of approximately \$ 1,674,649.48 now owed. (Secured Creditor/Lessor). Additional creditors who are the subject of this motion, and their respective claims, addresses and collateral, are described on the continuation sheets attached. (Attach additional sheets as necessary)

b. ☐ Movant moves for an order **imposing a stay** with respect to *any and all actions* against the Debtor and the estate taken concerning the debt/lease owed to the Secured Creditors/Lessors as described in this motion; and/or

c. ☐ Movant moves for an order **imposing a stay as to all creditors.**

d. ☐ Movant moves for an order **continuing the automatic stay** with respect to any and all actions against the Debtor and the estate taken concerning the debt/lease owed to the Secured Creditor/Lessor, and/or

e. ☒ Movant moves for an order **continuing the automatic stay as to all creditors.**

2. Case History:

a. ☒ A voluntary ☐ An involuntary petition concerning an individual[s] under chapter ☐ 7 ☐ 11 ☐ 12
☒ 13 was filed concerning the present case on (specify date): 5/14/19

b. ☐ An Order of Conversion to Chapter ☐ 7 ☐ 11 ☐ 12 ☐ 13 was entered on (specify date):

c. ☐ Plan was confirmed on (specify date):

- d. ☒ Other bankruptcy cases filed by or against this Debtor have been pending within the past year preceding the petition date in this case. These cases and the reasons for dismissal are:

1. Case name: Hector Guerrero
Case number: 1:18-12000-VK Chapter: 11
Date Filed: 8/7/18 Date dismissed: 9/17/18
Relief from stay re this Property ☐ was ☒ was not granted
Reason for dismissal: Debtor was dismissed for failure to file information.

2. Case name:
Case number: Chapter:
Date Filed: Date dismissed:
Relief from stay re this Property ☐ was ☐ was not granted
Reason for dismissal:

☐ See attached continuation page

- e. ☐ As of the date of this motion the Debtor ☐ has ☐ has not filed a statement of intentions regarding this Property as required under 11 U.S.C. §521(a)(2). If a statement of intentions has been filed, Debtor ☐ has ☐ has not performed as promised therein.

- f. ☒ The first date set for the meeting of creditors under 11 U.S.C §341(a) is/was 6/19/19 and the court ☐ has ☒ has not fixed a later date for performance by Debtor of the obligations described at 11 U.S.C. §521(a)(2). The extended date (if applicable) is .

- g. ☐ In a previous case(s), as of the date of dismissal there was:
☐ an action by the Secured Creditor/Lessor under 11 U.S.C. §362(d) still pending or
☐ such action had been resolved by an order terminating, conditioning or limiting the stay as to such creditor.

3. The equity in the property is calculated as follows:

a) 1. Property description/value: <u>17531 Encino Lane, Encino, CA 91316</u>	\$ <u>2,931,524.00</u>
2. Creditor/Lien amount: <u>Markee Holding Group</u>	\$ <u>1,558,200.00</u>
3. Creditor/Lien amount: <u>Elan Adivi</u>	\$ <u>45,000.00</u>
4. Creditor/Lien amount: <u>Los Angeles County Tax Collector</u>	\$ <u>50,468.37</u>
5. Creditor/Lien amount: <u>Internal Revenue Service</u>	\$ <u>20,981.11</u>
6. Total Liens	\$ <u>1,674,649.48</u>
7. Debtor's Homestead Exemption	\$ <u>100,000.00</u>
8. Equity in the Property (subtract lines 6 and 7 from line 1 and enter here)	\$ <u>1,156,874.52</u>

b) 1. Property description/value: <u> </u>	\$ <u> </u>
2. Creditor/Lien amount: <u> </u>	\$ <u> </u>
3. Creditor/Lien amount: <u> </u>	\$ <u> </u>
4. Creditor/Lien amount: <u> </u>	\$ <u> </u>
5. Creditor/Lien amount: <u> </u>	\$ <u> </u>
6. Total Liens	\$ <u> </u>
7. Debtor's Homestead Exemption	\$ <u> </u>
8. Equity in the Property (subtract lines 6 and 7 from line 1 and enter here)	\$ <u> </u>

☐ See attached continuation page

4. **Grounds for Continuing the Stay:**

a. ☒ Pursuant to 11 U.S.C. § 362(c)(3) the stay should be continued on the following grounds:

1. ☒ The present case was filed in good faith notwithstanding that a prior single or joint case filed by or against the individual Debtor which was pending within the year preceding the petition date was dismissed, because:

- A. ☐ The prior dismissal was of a case not refiled under chapter 7 after dismissal under 11 U.S.C. § 707(b);
B. ☒ Good faith is shown because In the Debtor's previous case he filed to stop a judgment. The Debtor worked out a deal with the creditor after filing the bankruptcy and stipulated to dismiss the case. The case was dismissed for failure to prosecute the case and file information.

☐ See attached continuation page

2. ☒ The Property is of consequential value or benefit to the estate because:

- A. ☐ The fair market value of the Property is greater than all liens on the Property as shown above in paragraph 3 and as supported by declarations attached (*describe separately as to each property*);.
B. ☒ The Property is necessary to a reorganization for the following reasons: This is the Debtor's primary residence.

☐ See attached continuation page

C. ☐ The Secured Creditor/Lessor's interest can be adequately protected by (describe Movant's proposal for adequate protection:)

☐ See attached continuation page

3. ☒ The presumption of a bad faith filing under 11 U.S.C. § 362(c)(3)(C)(i) is overcome in this case as to *all creditors* because:

- A. ☐ The prior dismissal was pursuant to the creation of a debt repayment plan. 11 U.S.C. § 362(i);
B. ☐ Debtor's failure to file or amend the petition or other documents as required by the court or Title 11 of the United States Code and resulting in dismissal was excusable because such failure was caused by the negligence of Debtor's attorney;
C. ☐ Debtor's failure to file or amend the petition or other documents as required by the court or Title 11 of the United States Code and resulting dismissal was excusable because

☐ See attached continuation page

D. ☐ Debtor's failure to provide adequate protection as ordered by the court in the prior case is excusable because ____

☐ See attached continuation page

E. ☐ Debtor's failure to perform the terms of a confirmed plan in the prior case is excusable because ____

☐ See attached continuation page

F. ☐ There has been a substantial change in the personal or financial affairs of the Debtor since the dismissal of the prior case(s) as follows: ____

From this, the court may conclude that this case, if a case under chapter 7, will result in a discharge or, if under chapter 11 or 13, in a confirmed plan that will be fully performed.

☐ See attached continuation page

G. ☒ For the following additional reasons Now the Debtor has filed his new case and he will either refinance or sell his property to pay his debts. The Debtor will be proposing a 100% plan and he will convert to a Chapter 11 on or before the confirmation hearing.

☐ See attached continuation page

4. ☐ The presumption of a bad faith filing as to the Secured Creditor/Lessor under 11 U.S.C. §362(c)(3)(C)(ii) is overcome in this case because ____

☐ See attached continuation page

5. **Grounds for Imposing a Stay:**

a. ☐ Pursuant to 11 U.S.C. §362(c)(4) this case was filed in good faith and grounds exist for imposing a stay as follows:

1. ☐ The Property is of consequential value or benefit to the estate because the fair market value of the Property is greater than all liens on the property as shown above in paragraph 3 and as supported by declarations attached.

2. ☐ The Property is of consequential value or benefit to the estate because the Property is necessary to a reorganization for the following reasons: ____.

☐ See attached continuation page

3. ☐ The Secured Creditor/Lessor's interest can be adequately protected by *(describe Movant's proposal for adequate protection)*: ____

☐ See attached continuation page

- b. ☐ The present case was filed in good faith notwithstanding that the prior single or joint cases filed by or against the individual Debtor pending within the year preceding the petition date were dismissed, because:

1. ☐ The prior dismissal was of a case not refiled under chapter 7 after dismissal under 11 U.S.C. §707(b);
2. ☐ Good faith is shown because ____

☐ See attached continuation page

- c. ☐ The presumption of a bad faith filing under 11 U.S.C. §362(c)(4)(D)(i) is overcome in this case as to *all creditors* because:

1. ☐ Debtor had a substantial excuse in failing to file or amend the petition or other documents as required by the court or Title 11 of the United States Code, resulting in the prior dismissal(s) as follows: ____

☐ See attached continuation page

2. ☐ Debtor's failure to file or amend the petition or other documents as required by the court or Title 11 of the United States Code and resulting dismissal was as the result of the negligence of Debtor's attorney;
3. ☐ Debtor's failure to provide adequate protection as ordered by the court in the prior case is excusable because ____

☐ See attached continuation page

4. ☐ Debtor's failure to perform the terms of a confirmed plan in the prior case is excusable because ____

☐ See attached continuation page

5. ☐ There has been a substantial change in the personal or financial affairs of the Debtor since the dismissal of the prior case(s) as follows: ____

(from which the Court may conclude that this case, if a case under chapter 7, may be concluded with a discharge or, if under chapter 11 or 13, with a confirmed plan that will be fully performed).

☐ See attached continuation page

6. ☐ For the following additional reasons ____

☐ See attached continuation page

7. ☐ The presumption of bad faith as to the Secured Creditor/Lessor under 11 U.S.C. §362(c)(4)(D)(ii) is overcome in this case because ____

☐ See attached continuation page

6. **Evidence in Support of Motion: (Important Note: Declaration(s) in support of the Motion MUST be attached hereto).**

- a. ☐ Movant submits the attached Declaration(s) on the court's approved forms (if applicable) to provide evidence in support of this Motion pursuant to LBRs.
- b. ☒ Other Declaration(s) are also attached in support of this Motion
- c. ☐ Movant requests that the court consider as admissions the statements made by Debtor under penalty of perjury concerning Movant's claims and the Property set forth in Debtor's(s') Schedules. Authenticated copies of the relevant portions of the Schedules are attached as Exhibit ____.
- d. ☐ Other evidence (specify): ____

7. ☐ An optional Memorandum of Points and Authorities is attached to this Motion.

WHEREFORE, Movant prays that this Court issue an Order Imposing a Stay and granting the following (specify forms of relief requested):

- 1. ☒ That the Automatic Stay be continued in effect as to all creditors until further order of the court.

2. ☐ That the Automatic Stay be continued in effect as to the Secured Creditor/Lessor with respect to the Property until further order of the court.
3. ☐ That the Automatic Stay be continued in effect as to the Secured Creditor/Lessor with respect to actions to collect the debt owed to the Secured Creditor/Lessor until further order of the court.
4. ☐ That a Stay be imposed as to all creditors until further order of the court..
5. ☐ That a Stay be imposed as to the Secured Creditor/Lessor with respect to the Property until further order of the court.
6. ☐ That a Stay be imposed as to the Secured Creditor/Lessor with respect to actions to collect the debt owed to the Secured Creditor/Lessor until further order of the court.
7. ☐ For adequate protection of the Secured Creditor/Lessor by *(specify proposed adequate protection)*
8. ☐ For other relief requested, see attached continuation page.

Date: May 23, 2019

Respectfully submitted,
Hector Guerrero
Movant Name
RESNIK HAYES MORADI, LLP.
Firm Name of attorney for Movant (if applicable)

/s/ Matthew D Resnik
Signature
Matthew D Resnik
Printed Name of Individual Movant or Attorney for Movant

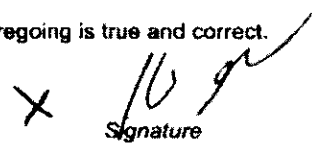
DECLARATION OF MOVANT

I Hector Guerrero, am the Movant. I have read the foregoing motion consisting of 9 pages, and the attached materials incorporated therein by reference. If reference is made to balances owing, my testimony regarding same is based upon the business records of Movant kept in the ordinary course of business of Movant by persons whose responsibility it is to accurately and faithfully record information as to the Debtor's account on or near the date of events recorded. I am one of the custodians of such business records.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

May 23, 2019
Date

Hector Guerrero
Printed name of declarant

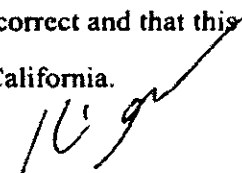
X 
Signature

**DECLARATION OF HECTOR GUERRERO
IN SUPPORT OF MOTION TO CONTINUE THE AUTOMATIC STAY**

I, Hector Guerrero, do hereby declare that all of the following is true and correct to the best of my personal knowledge and if called upon as a witness I could and would competently testify to the truthfulness of all of the below statements.

1. I am the Debtor in case number 1:19-bk-11194-VK. This case was filed on May 14, 2019.
2. I filed a Chapter 11 bankruptcy, case number: 1:18-bk-12000-VK on August 7, 2018, and my case was dismissed on September 17, 2018 for failure to file information.
3. I filed bankruptcy in my previous case because of a judgment that was being placed on my property.
4. After I filed for bankruptcy, my attorney in my previous case, settled with the judgment creditor and I stipulated to dismiss my bankruptcy.
5. Now, I have filed a Chapter 13 bankruptcy, because my home is in danger of being foreclosed. I have substituted the law firm of Resnik Hayes Moradi, LLP into my Chapter 13 case to help me save my home.
6. I also plan on refinancing my property after I have objected to the claims I believe to be improper. I have enough equity to pay off my entire case early.
7. I will be converting my case to a Chapter 11 Bankruptcy at or prior to the confirmation hearing set for July 2, 2019.
8. I am confident that with the help of Resnik Hayes Moradi, LLP I will be able to prosecute my case properly so that I may receive my discharge as well as preserve my home.

I declare under the penalty of perjury that the foregoing is true and correct and that this declaration is executed this 23rd day of May 2019, at Los Angeles, California.


Hector Guerrero

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
510 W. 6th Street
Ste 1220
Los Angeles, CA 90014

A true and correct copy of the foregoing document entitled (*specify*): Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate will be served or was served (**a**) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (**b**) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On 5/29/19, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Elizabeth Rojas: cacb_ecf_sv@ch13wla.com
UST: ustregion16.wh.ecf@usdoj.gov
Daniel Desoto: desotolegal@gmail.com

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On 5/29/19, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☒ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on , I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

May 29, 2019
Date

Max Bonilla
Printed Name


Signature

Debtor:

Hector Guerrero
17531 Encino Lane
Encino, CA 91316

Judge's Copy

Hon. Judge Victoria Kaufman
21041 Burbank Boulevard, Suite 354 / Courtroom 301
Woodland Hills, CA 91367

Creditors:

Elan Adivi (Certified Mail)
1536 S. Wooster Street #3
Los Angeles, CA 90035

Internal Revenue Service (Certified Mail)
P.O. Box 7346
Philadelphia, PA 19101-7346

Los Angeles County Tax Collector (Certified Mail)
P. O. Box 54110
Los Angeles, CA 90051-0110

Franchise Tax Board (Certified Mail)
Attn: Bankruptcy Unit
P.O. Box 2952
Sacramento, CA 95812-2952

Markee Holding Group (Certified Mail)
24025 Park Sorento #150
Calabasas, CA 91302

Amex
P.o. Box 981537
El Paso, TX 79998

SBS Trust Deed Network
31194 La Baya Drive, Suite 106
Thousand Oaks, CA 91362

Chase Card
Po Box 15298
Wilmington, DE 19850

Discover Products Inc
PO BOX 3025
New Albany, OH 43054

Dsnb Macys
Po Box 8218
Mason, OH 45040